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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,861	10/17/2003	Atsushi Tabata	243717US3DIV	1725

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,861

Applicant(s)

TABATA, ATSUSHI

Examiner

Christopher Bottorff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 17, 2003.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 20-94 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 28-48, drawn to a Moving Object with a Fuel Cell, classified in class 429, subclass 12.
- II. Claims 20-26, drawn to a Driving Apparatus with a Fuel Cell, classified in class 180, subclass 65.3.
- III. Claims 64-86, drawn to a Hybrid System, classified in class 180, subclass 65.2.
- IV. Claims 49-60 and 88-93, drawn to a Moving Object Outputting Power Through a Drive Shaft, classified in class 180, subclass 65.2.
- V. Claims 27, 61-63, and 94, drawn to a method of Controlling a Moving Object, classified in class 701, subclass 22.
- VI. Claims 87, drawn to a Method of Controlling a Hybrid System, classified in class 180, subclass 65.2.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, and IV are unrelated to each other and inventions V and VI are unrelated to each other. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, inventions I-IV are not disclosed as being useable together. Each of these

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inventions functions differently than the others and each is essentially disclosed as a substitute for the others. Also, inventions V and VI are disclosed as different methods of controlling different devices. Invention V is disclosed as a method of controlling a moving object, while invention VI is disclosed as a method of controlling a Hybrid System.

Inventions I and IV are related to invention V as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the moving objects of inventions I and IV could be used in another materially different manner than the manner defined by invention V. For example, the energy output could be regulated in a different manner.

Inventions II and III are unrelated to invention V. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not disclosed as usable together. Invention V discloses a method of controlling a moving object, which does not apply to the driving apparatus or hybrid apparatus of inventions II and III.

Inventions III and VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially

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different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the hybrid system could be used in another materially different manner. For example, an energy output source could be used to recharge a battery and the battery could supply the total required energy.

Inventions I, II, and IV are unrelated to invention VI. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not disclosed as usable together. Invention VI discloses a method of controlling a hybrid system, which does not apply to the moving objects of inventions I and IV or the driving apparatus of invention II.

Because these inventions are distinct for the reasons given above, the search required for each invention is different, and the inventions have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In addition to the distinct inventions discussed above, this application contains claims directed to the following patentably distinct species of the hybrid vehicle:

- A. Hybrid Vehicle A (Figs. 1-19)
- B. Hybrid Vehicle B (Figs. 20 and 21)
- C. Hybrid Vehicle C (Figs. 22-32)

- D. Hybrid Vehicle D (Figs. 33-36) (If applicant elects Hybrid Vehicle D, further election is required below)
- E. Hybrid Vehicle E (Figs. 37-54) (If applicant elects Hybrid Vehicle E, further election is required below)
- F. Hybrid Vehicle F (Figs. 55-57)
- G. Hybrid Vehicle G (Figs. 58-65)
- H. Hybrid Vehicle H (Figs. 66-76) (If applicant elects Hybrid Vehicle H, further election is required below)
- I. Hybrid Vehicle I (Figs. 77-80) (If applicant elects Hybrid Vehicle I, further election is required below)
- J. Hybrid Vehicle J (Fig. 81)
- K. Hybrid Vehicle K (Figs. 82-86) (If applicant elects Hybrid Vehicle K, further election is required below)
- L. Hybrid Vehicle L (Figs. 87-92) (If applicant elects Hybrid Vehicle L, further election is required below)

If Applicant elects embodiment D above, Applicant must select one of the following modifications to this embodiment:

- a. Original embodiment D (Figs. 33 and 34)
- b. First modification of embodiment D (Fig. 35)
- c. Second modification of embodiment D (Fig. 36)

If Applicant elects embodiment E above, Applicant must select one of the following modifications to this embodiment:

- d. Original embodiment E (Figs. 37-45)
- e. First modification of embodiment E (Figs. 46-51)
- f. Second modification of embodiment E (Figs. 52-54)

If Applicant elects embodiment H above, Applicant must select one of the following modifications to this embodiment:

- g. Original embodiment H (Figs. 66-70)
- h. First modification of embodiment H (Figs. 71 and 72)
- i. Second modification of embodiment H (Figs. 73 and 74)
- j. Third modification of embodiment H (Figs. 75 and 76)

If Applicant elects embodiment I above, Applicant must select one of the following modifications to this embodiment:

- k. Original embodiment I (Figs. 77-79)
- l. First modification of embodiment IX (Fig. 80)

If Applicant elects embodiment K above, Applicant must select one of the following modifications to this embodiment:

- m. Original embodiment K (Figs. 82-84)
- n. First modification of embodiment K (Figs. 85 and 86)

If Applicant elects embodiment L above, Applicant must select one of the following modifications to this embodiment:

- o. Original embodiment L (Figs. 87-89)
- p. First modification of embodiment L (Figs. 90-92)

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic to all species.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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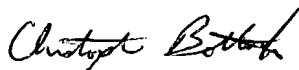
case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher Bottorff



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5/20/04